

Opinion 370
August 1974
Tex. Comm. On Professional Ethics, Op. 370, V. 37 Tex. B.J. 676 (1974)

LAW LISTS - LOCAL BAR ASSOCIATION - STATEMENT AS TO AREAS OF PRACTICE

QUESTION

"Can a local bar association in publishing its annual roster of members include a listing of one or more fields of law in which each member lawyer concentrates?"

OPINION

A local bar association of the State of Texas may publish a list of its members and indicate as to each member the area of law in which such member indicates a particular interest, provided such law list is published only to the members of the bar association or other lawyers in the area.

Canon 2 of the Code of Professional Responsibility states:

"A Lawyer Should Assist the Legal Profession in Fulfilling Its Duty to Make Legal Counsel Available."

DR 2-102 (A) states:

"A lawyer or law firm shall not use professional cards, professional announcement cards, office signs, letterheads, telephone directory listings, law lists, legal directory listings, or similar professional notices or devices, except that the following may be used if they are in dignified form:

"(6) A listing in a reputable law list or legal directory giving brief biographical and other informative data"

Exception No. (6) further provides that the law list shall be presumed reputable if it is certified by the American Bar Association and it further provides that the published data may include, among other information, a statement as to "one or more fields of law in which the lawyer or law firm concentrates; a statement that practice is limited to one or more fields of law; a statement that the lawyer or law firm specializes in a particular field of law or law practice but only if authorized under DR 2-105 (A) (4)."

That Section, DR 2-105 (A) (4), provides that "a lawyer shall not hold himself out publicly as a specialist or as limiting his practice, except as permitted under DR 2-102 (A) (6) or as follows:

"(4) A lawyer who is certified as a specialist in a particular field of law or law practice by the authority having jurisdiction under state law over the subject of specialization by lawyers may hold himself out as such specialist but only in accordance with the rules prescribed by that authority."

Clearly, if the members of such local bar association are authorized specialists, then there would be no prohibition against such listing, even though it might be published generally. The question presented, however, indicates a desire to publish a field of law in which the lawyer member may concentrate, even though not authorized as a specialist. It is the opinion of the Committee that DR 2-103 (D) would permit such; it provides:

"A lawyer shall not knowingly assist a person or organization that recommends, furnishes, or pays for legal services to promote the use of his services or those of his partners or associates. However, he may cooperate in a dignified manner with the legal service activities of any of the following, provided that his independent professional judgment is exercised in behalf of his client without interference or control by any organization or other person:

"(4) A bar association representative of the general bar of the geographical area in which the association exists."

The opinion of the Committee, therefore, is further conditioned upon the "local bar association" being representative of the general bar of the geographical area. It is obvious that a junior bar being limited to members age 36 and younger could conceivably be not representative of the general bar in the area; but it is believed that where such association is open to "all lawyers" coming within the age limitation that such junior bar association would generally be representative of all of such lawyers in the geographical area and should not, as a practical matter, cause any problem insofar as lawyers not within the age limitation are concerned.

The opinion of the Committee is further predicated upon the provisions of DR 2-105 which provides:

"A lawyer shall not hold himself out publicly as a specialist or as limiting his practice, except as permitted under DR 2-102 (A) (6) or as follows:

"(3) A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once in a calendar year, . . . "

Such last-quoted provision constituting the basis upon which the Committee would restrict the publication of the law list to members of the association or other lawyers in the area.

It is recognized that the local bar list would not necessarily be required to be approved by the Standing Committee on Law Lists of the American Bar Association, but such should not present any problems in that it is recognized by ABA Informal Decision No. 833 that a law list may be reputable, even though not approved by the ABA Standing Committee on Law Lists.

The opinion of the Committee is further predicated upon by ABA Informal Opinion Nos. 629 and 469. It is the further opinion of the Committee that such law list as here approved should carry with it a disclaimer in approximately the following language:

"The indications of specialties or fields of law in which the lawyers listed herein concentrate their practice does not constitute an endorsement by this bar association of the skill or ability of any of such lawyers in the specialty or fields of law so indicated, but is simply intended as an indication of the specialty or field of law in which such lawyer has indicated an interest."